

••ATTACHMENT

EPA staff has identified the following as areas of concern:

- The broad language of [the Order] Paragraph IV./3., can be construed as to release the Municipality of any potential allegations of violations not addressed within the Order. Such might include EPA-identified violations under Used Oil, Spill Prevention, Control, and Countermeasures, and Stormwater Programs;
- Intermediate cover and slope stability issues and deficiencies, evident during EPA's inspection, are not addressed in the Email;
- Past lateral expansion of the waste boundaries of the landfill. From 40 C.F.R. §258.2 Definitions: Lateral expansion means a horizontal expansion of the waste boundaries of an existing MSWLF unit. Lateral expansion, subsequent to April 9, 1994, was in evidence at Hormigueros and many of the landfills visited by EPA/RCB. 40 C.F.R. §258 was intended to mandate either closure or lining, *inter alia*, of any landfill expanding the waste boundaries of their landfill subsequent to the applicable effective date of the regulations. EQB's *Regulations for the Disposal of Non-hazardous Solid Wastes* follows the federal regulations in this as well as most areas. It is unclear as to why past lateral expansion was accepted without mandating closure or lining and leachate collection or, perhaps more reasonably, some combination of both. At a minimum, these Orders represent a significant opportunity to rectify past enforcement discretionary actions by establishing a rigorous limit to ongoing operations sans proper lining and leachate collection systems.
- While EQB did agree that the Orders are heavily dependent on the Compliance Plans for specificity, they did not discuss evident deficiencies with the Hormigueros Compliance Plan, including:

The Compliance Plan, as supplied to EPA, consisted of a set of tables with a cover letter and other accompanying documentation. The Plan listed a number of Compliance Dates that have passed or will shortly pass. It is unlikely that all of the listed Corrective Actions have been funded and accomplished. As the proposed Order does not contain Compliance Deadlines, it is unclear how an outdated Compliance Schedule in the Plan will be either adhered to or enforceable. According to the table supplied by EQB to EPA, Hormigueros is due to receive \$375,000 from the SWMA. The Cost Estimates/Funding Source column totals some \$111,000 of costs funded by SWMA and some \$26,000 of municipal costs. These estimates substantially undervalue the amount of funding that will be necessary to get the landfill into compliance. In fact, the \$375,000 allocated by SWMA may not be enough (see below). Other issues include:

- The Rule 531 T. line item does not address ongoing costs of sampling.
- The Rule 542 E. line item states that no scale is needed. This is in conflict with the

Order which requires such an installation;

- The Rule 548 A. line items covers only the construction of run-on controls. Although the Order will be rewritten to include run-off control, the Compliance Plan needs to be amended to address the site-specific stormwater run-off control problems or the costs associated with these controls (Rule 548 B). This is a major deficiency since run-off may be the most significant environmental problem of the landfill. Old areas of waste deposition about a creek that divides the landfill from private residences. As recently as Spring, 2004, landfill run-off flowed directly into this creek. Such a restrictive layout complicates any run-off collection and control system;
- The Rule 548 C. line item does not adequately address a system to prevent the contamination of groundwater. Leachate control/prevention systems, involving the subterranean interception of liquid and contaminants leached from the landfills, would require substantially more than the listed levels of funding. Modern landfill design, particularly the use of redundant synthetic and/or clay hydraulic liners and leachate collection systems are the only known practical means of controlling leachate in non-arid climates (other than closing and capping);
- The Rule 554 A. line item commits only \$5,000 to a hydrological study, while the Rule 554 B. line item commits a mere \$3,000 for drilling, installation, and development of monitoring wells. These amounts appear to significantly underestimate the costs involved in establishing an effective groundwater monitoring infrastructure;
- Daily and intermediate cover and slope stability issues and deficiencies are not addressed; and
- The Compliance Plan indicates that, during the 2004-2005 fiscal year, the Municipality of Hormigueros will acquire a neighboring property for some \$150,000. The Plan indicates that the MSWLF will laterally expand into this adjoining property. The line items and significant costs associated with bringing this new expansion into compliance are not addressed (*e.g.*, liner, leachate collection, Environmental Impact Study).